

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STATE FARM MUTUAL
AUTOMOBILE INSURANCE
COMPANY,

Plaintiff,

Case No. 2:16-cv-13040
District Judge Sean F. Cox
Magistrate Judge Anthony P. Patti

v.

ELITE HEALTH CENTERS, INC.,
ELITE CHIROPRACTIC, P.C.,
ELITE REHABILITATION, INC.,
MIDWEST MEDICAL
ASSOCIATES, INC., PURE
REHABILITATION, INC., DEREK
L. BITTNER, D.C., P.C., MARK A.
RADOM, DEREK LAWRENCE
BITTNER, D.C., RYAN MATTHEW
LUKOWSKI, D.C., MICHAEL P.
DRAPLIN, D.C., NOEL H. UPFALL,
D.O., MARK J. JUSKA, M.D.,
SUPERIOR DIAGNOSTICS, INC.,
CHINTAN DESAI, M.D., MICHAEL
J. PALEY, M.D., DEARBORN
CENTER FOR PHYSICAL
THERAPY, L.L.C., MICHIGAN
CENTER FOR PHYSICAL
THERAPY, INC., and JAYSON
ROSETT

Defendants.

**ORDER GRANTING IN PART STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY'S MOTION TO COMPEL DEREK BITTNER
AND MARK RADOM TO PROUCE DOCUMENTS RESPONSIVE TO ITS
DISCOVERY REQUESTS (DE 91, 92)**

This matter is before the Court for consideration of Plaintiff State Farm Mutual Automobile Association's motion to compel Derek Bittner and Mark Radom to produce documents responsive to its discovery requests (DE 91, 92), Defendants Derek Bittner and Mark Radom's response (DE 94), State Farm Mutual's reply (DE 96, 97), and State Farm Mutual's Statement of Unresolved Issues (DE 106). Judge Cox referred this motion for hearing and determination (DE 93), and a hearing was noticed for March 8, 2018.

On the date set for hearing, attorney Peter Joelson appeared in my courtroom and attorney Michael Rosensaft appeared by telephone, and the Court entertained oral argument regarding the unresolved issues.

Upon consideration of the motion papers, stipulations placed on the record and oral argument of counsel, and for all of the reasons stated on the record by the Court, which are herein incorporated by reference, Plaintiff's motion to compel (DE 91, 92), as narrowed by the March 5, 2018 statement of unresolved issues (DE 106), is **GRANTED IN PART** as follows:

1. **Request No. 13 to Radom, regarding federal and state income tax returns and related documents from 2010 to the present:** Radom has produced requested documents for the 2014 and 2015 calendar years, but states that he has no other responsive documents in his possession. He also has executed an authorization so that State Farm Mutual can seek his personal tax return information from the IRS. In addition,

Radom shall contact his accountant(s) **within five (5) days**, instruct them to produce, forthwith, all documents responsive to Request No. 13, and certify that contact to Plaintiff's counsel. Radom agrees that he will not object to a subpoena served on his accountant(s) for the requested information, and he shall execute any release required by the accountant(s) prior to production of the requested documents **within five (5) days** of a written request for such release.

2. **Request No. 12 to Bittner and Radom, regarding electronic Quickbook versions of general ledgers:** Bittner and Radom have produced a paper copy of the requested files, and shall produce Quickbook versions of their general ledgers in native/electronic format by **March 22, 2018**.
3. **Request Nos. 7, 8, 15, 18, 21, 24-26, 31, 33, and 35 to Bittner and Radom, regarding electronic communications:** Defendants Bittner and Radom have engaged a third party vendor to search for and collect responsive electronic communications, and shall produce responsive, non-privileged electronic communications by **April 16, 2018**. To the extent possible, Defendants shall produce such electronic communications on a rolling basis, as they become available, subject to any necessary privilege review.

Finally, as stated on the record, the Court declines to award costs to either side, because both sides' positions were substantially justified, the issues required rulings from the Court, and the statement required by Local Rule 7.1(a)(2) was incomplete.

IT IS SO ORDERED.

Dated: March 8, 2018

s/Anthony P. Patti
Anthony P. Patti
UNITED STATES MAGISTRATE JUDGE

Certificate of Service

I hereby certify that a copy of the foregoing document was sent to parties of record on March 8, 2018, electronically and/or by U.S. Mail.

s/Michael Williams

Case Manager for the
Honorable Anthony P. Patti